

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Appeal No. 683-SB of 1998
Date of Decision: June 29, 2010

Sher Singh

.....Appellant

Versus

State of Haryana

.....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mrs.B.K.Mann, Advocate for the appellant.
Mr.Satyaveer Singh Yadav, Deputy Advocate
General, Haryana

Sabina, J.

Accused -Sher Singh, appellant was sent up for trial by the Police of Police Station Ambala under Sections 3, 4 and 5 of the Explosive Substances Act, 1908 (for short 'the Act') . Vide judgment dated 19.8.1998 passed by the Additional Sessions Judge, Ambala, the accused was convicted for an offence under Section 5 of the Act and was acquitted of the charge under Section 4 of the Act. Vide order dated 20.8.1998, he was sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 5000/-. Hence, the present appeal by the accused-appellant.

Prosecution case, as noticed by the trial Court in paras No. 2

and 3 of its judgment, is reproduced herein below:-

“2. On 19.1.1996 ASI Babu Ram (PW4) was investigating one case FIR No. 88 dated 15.12.1995, under sections 302/395, 396/120-B, 216A/148 read with Section 149 IPC, u/s 25 of the Arms Act and 3/4/5 Explosive Substances Act of Police Station Nangal. One Jagtar Singh who was accused in that case told ASI Babu Ram that he had handed over 5 Kgs of RDX to accused Sher Singh Granthi in order to conceal the same. ASI Babu Ram, HC Bhupinder Singh, HC Randhir Singh constable Ram Phal and constable Randhir Singh proceeded towards the house of accused Sher Singh. When they reached near Manji Sahib Gurudwara Sohan Lal (PW8) met them and he was joined in the raiding party. The police party reached at the house of accused Sher Singh, situated in Charkhi Mohalla, Ambala City. Accused Sher Singh was available at his house. He was interrogated. Accused Sher Singh made a disclosure statement Ex.PD that about 1½ months ago Jagtar Singh alias Jassa had handed over 5 kgs of RDX to him for the purpose of concealing and he had kept the same concealed in a trunk lying in the eastern room of his residential house and he could get the same recovered. He also stated that Jagtar Singh, Paramjit Singh Bhewar, Balwant Singh and Parshotam Singh used to visit him in Sangat Sahib Gurudwara and they used to talk of causing the death of Shri Bhajan Lal Chief Minister, Haryana by bomb explosion Jagtar Singh alias Jassa, Paramjit Singh and Balwant Singh also told him that they had conspired and had caused the death of Shri Beant Singh, Chief Minister, Punjab in a

bomb blast.

3. Thereafter, the accused led the police party to a room of his house and got recovered RDX lying in a trunk which turned out to be 5 Kgs on weighment. One KG of RDX was drawn out as sample and the sample and the remainder were made into a separate parcels and sealed with the seal of JL. The seal after use was entrusted to Sohan Lal. The case property was seized vide memo Ex.PE. Ruka Ex.PG was sent to the police station on the basis of which FIR Ex.PG/1 was recorded by Inder Singh MHC. One rough site plan Ex.PF was prepared and statements of the witnesses were recorded. After completion of investigation and other usual formalities, a challan was presented in the court."

Learned counsel for the appellant, during the course of arguments, has not challenged the conviction of the appellant under Section 5 of the Act but has submitted that the sentence qua imprisonment of the appellant be reduced to already undergone by him. Learned counsel has submitted that the petitioner has minor children to look after. The eldest child of the appellant is mentally retarded. Appellant has undergone about eight months of actual sentence and is not involved in any other criminal case. Appellant is now peacefully working as a Granthi in a Gurdwara. The alleged recovery had been effected in the year 1996 and the appellant is facing the criminal proceedings since then.

Keeping in view the facts and circumstances of this case, it would be just and expedient to reduce the sentence qua imprisonment of the appellant to already undergone by him .

Accordingly, the conviction of the appellant under Section 5

of the Act is maintained. However, the sentence qua imprisonment of the appellant is reduced to already undergone by him. Fine, if not deposited, be deposited by the appellant within a month from today failing which this appeal shall stand dismissed.

Appeal stands disposed of accordingly.

(Sabina)
Judge

June 29, 2010
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